



CHAIRMAN

Federal Communications Commission
Washington, D.C.

January 4, 2005

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The Honorable Fred Upton
Chairman
Subcommittee on Telecommunications and the Internet
Committee on Energy and Commerce
2415 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Upton:

Thank you for your letter dated December 10, 2004, regarding the Air-Ground and Airborne Cellular rulemaking proceedings (WT Docket Nos. 03-103 and 04-435). In your letter, you express support for reasonably-priced broadband voice and data services for the traveling public.

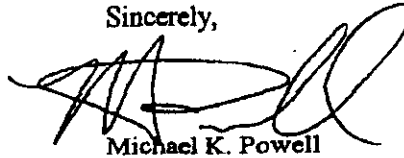
On December 15, 2004, the Commission adopted an *Order* that reflects a flexible approach for licensing the 4 MHz of spectrum in the 800 MHz band currently dedicated to commercial air-ground service. Rather than choosing a particular business plan for this spectrum, the Commission decided to auction new licenses in three possible band plan configurations, where the ultimate band configuration will be determined based on the results of an auction. To promote competition, and to ensure maximum use of the frequency band for air-ground services, the Commission imposed an eligibility limitation to prevent a single entity from holding new licenses for all 4 MHz of air-ground spectrum. The Commission believes that this action will help bring broadband services to the traveling public onboard aircraft and lead to greater technical, economic, and marketplace efficiency for this spectrum. The Commission also decided not to authorize ancillary services in the band.

In a companion *Order*, the Commission has initiated a rulemaking proceeding that seeks public comment as to whether certain wireless devices could be used onboard airborne aircraft without causing interference to ground-based cellular systems. In particular, the Commission has proposed to relax its ban on the airborne use of cellular telephones, so long as an onboard "pico cell" controls the power level of wireless handsets. The *Order* notes that the Federal Aviation Administration ("FAA") also restricts the use of wireless devices on aircraft and is currently evaluating the potential impact of such devices on aircraft communications and navigation systems. As a result, the Commission's proposals would not be implemented unless the FAA relaxes its restrictions on the airborne use of wireless devices.

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Attached are the two press releases by the Commission that describe the above-mentioned *Orders*. I appreciate your interest in this matter. Please do not hesitate to contact me if you have additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael K. Powell", written over a horizontal line.

Michael K. Powell

Enclosures



NEWS

Federal Communications Commission
445 12th Street, S.W.
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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).

FOR IMMEDIATE RELEASE:
December 15, 2004

NEWS MEDIA CONTACT:
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FCC PAVES THE WAY FOR NEW BROADBAND SERVICES IN THE AIR

Restructures Air-Ground Radiotelephone Service, Proposes Auction Rules, and Streamlines Other Rules

WASHINGTON, D.C. – Today, the Federal Communications Commission (Commission) adopted a flexible approach for licensing the 4 MHz of spectrum in the 800 MHz band currently dedicated to commercial air-ground service. The Commission decided to auction new licenses for this spectrum in three possible band plan configurations and proposed auction rules for this spectrum. The ultimate band configuration will be determined based on the results of the auction. However, in order to further competition and ensure maximum use of the frequency band for air-ground services, the Commission imposed an eligibility limitation to prevent a single entity from holding new licenses for all 4 MHz of air-ground spectrum.

The Commission's action will help bring broadband services to the traveling public onboard aircraft and lead to greater technical, economic, and marketplace efficiency for this spectrum. Under the licensing approach adopted by the Commission, the final band configuration will be determined by the winning bidders at auction. New licenses will be awarded to high bidders for the two licenses comprising the configuration that receives the highest aggregate gross bid, subject to review of post-auction license applications. Bidders will have three options, which are based on proposals submitted to the Commission in this proceeding:

Band Plan 1 — two overlapping, cross-polarized 3 MHz licenses (licenses "A" and "B")

Band Plan 2 — an exclusive 3 MHz license and an exclusive 1 MHz license (licenses "C" and "D")

Band Plan 3 — an exclusive 1 MHz license and an exclusive 3 MHz license (licenses "E" and "F"), with the blocks at opposite ends of the band from Band Plan 2

Under the eligibility limitation, no more than 3 MHz of spectrum (either shared or exclusive) under the new rules could be acquired at auction or post-auction by a single entity. The Commission determined that the two new licensees must provide air-ground service, meaning service to airborne locations. New air-ground service may be any type (e.g., voice, data, broadband internet, etc.) and may be provided to any or all aviation markets (e.g.,

commercial, military, and general). The Commission decided not to authorize ancillary services in the band.

To ensure protection to adjacent public safety operations in the 800 MHz band, the Commission applied to 800 MHz air-ground licensees the same interference rules and other specific protections adopted earlier this year in the 800 MHz public safety proceeding. Specifically, the Commission stated that ground stations in the air-ground 800 MHz service will be subject to the same interference abatement obligation rules adopted for cellular services in the 800 MHz public safety order.

The Commission also granted Verizon Airfone, the current operator in the 800 MHz air-ground spectrum, a non-renewable 5-year license, subject to existing narrowband technical limits. Noting that the provision of high-speed broadband services to consumers onboard aircraft by one or more new licensees will require at least 3 MHz of the 4 MHz band, the Commission decided that following the grant of the new license, Verizon Airfone must limit operations of the existing narrowband Airfone system under the 5 year non-renewable license to the remaining 1 MHz of spectrum. The Commission observed that the reduced spectrum for the incumbent system would be sufficient to maintain current service levels because the narrowband plan was originally intended to accommodate up to 6 licensees, and only the Verizon system remains in operation.

In addition to restructuring the air-ground spectrum, the Commission decided to resolve several pending mutually exclusive applications for individual channels in the 400 MHz general aviation air-ground band through auction. The Commission also eliminated or streamlined a number of other rules pertaining generally to public land mobile radio services. Among other things, the Commission eliminated the requirement that an authorization be obtained to operate general aviation airborne mobile stations in the air-ground service, deleted the requirement that specific Air-Ground Radiotelephone Automated Service protocols be used, and deleted the requirement that public land mobile radio services licensees under Part 22 of the Commission's rules be common carriers.

In a related action today, the Commission began an inquiry into whether its ban on using cellular telephones on airborne aircraft should be modified.

Action by the Commission on December 15, 2004, by *Report and Order and Notice of Proposed Rulemaking* (FCC 04-287). Chairman Powell, Commissioners Abernathy and Martin with Commissioners Copps and Adelstein dissenting in part, Chairman Powell, Commissioners Copps and Adelstein issuing separate statements.

Wireless Telecommunications Bureau Contact: Richard Arsenault, Chief Counsel, Mobility Division, at (202) 418-0920 or richard.arsenault@fcc.gov. TTY 1-888-835-5322.

WT Docket 03-103

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News about the Federal Communications Commission can also be found on the Commission's web site www.fcc.gov.



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FOR IMMEDIATE RELEASE:
December 15, 2004

NEWS MEDIA CONTACT:
Lauren Patrich at (202) 418-7944
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FCC TO EXAMINE BAN ON USING CELLULAR TELEPHONES ON AIRBORNE AIRCRAFT

WASHINGTON, D.C. – Today, the Federal Communications Commission proposed to relax its current ban on the use of cellular telephones on airborne aircraft. The Commission addressed policy and technical options for permitting controlled use of cellular handsets and other wireless devices in airborne aircraft as a means to increase communication options available to the traveling public as well as public safety personnel. The Commission's rules currently require that cellular handsets be turned off once an aircraft leaves the ground to avoid interfering with terrestrial cellular systems. Federal Aviation Administration (FAA) regulations also currently restrict the use of mobile telephones and other portable electronic devices (PEDs) on aircraft to ensure against interference to onboard communications and navigation equipment.

The Commission cautioned that any steps it ultimately takes with respect to the use of cellular and other wireless devices aboard aircraft would be subject to the rules and policies of the FAA and aircraft operators. The Commission added that it did not intend in initiating this proceeding to affect ongoing efforts by the FAA to examine its own rules and policies on this subject. Rather, the Commission is coordinating with the FAA to ensure that FCC rules and policies complement the FAA's efforts and address issues unique to wireless service providers, which are subject to the Commission's regulatory jurisdiction.

Specifically, the Commission proposed to permit the airborne operation of "off the shelf" wireless handsets and other devices so long as the device operates at its lowest power setting under control of a "pico cell" located on the aircraft, and the operation does not allow unwanted radio frequency emissions to interfere with terrestrial cellular systems. The Commission asked for public comment on whether the proposal should apply only to devices operating in 800 MHz cellular spectrum, or whether devices operating on other spectrum bands, such as the PCS band or Advanced Wireless Services bands, should be included.

The Commission also asked for public comment on ways that the 800 MHz cellular spectrum could be used to provide a communications "pipe" between airborne aircraft and the ground. This could include whether the current FCC restriction could be replaced by an industry-developed standard that would guard against harmful interference to both airborne and

terrestrial systems through appropriate technical and operational limitations. The Commission also sought comment on whether to allow cellular carriers to provide service on a secondary basis to airborne devices subject to technical limitations aimed at preventing harmful interference. The Commission also raised these questions with respect to other Commercial Mobile Radio Services spectrum bands.

The Commission stated that its proposal is an important step in a process aimed at increasing the communications options for wireless users—in this case, airborne connectivity—while ensuring no increased risk of harmful interference to terrestrial cellular systems. The Commission explained that its ultimate objective is to allow consumers to use their own wireless devices during flight.

In a related action today, the Commission also restructured the rules for the air-ground radio telephone service, currently provided by Verizon Airfone, and proposed auction rules for that spectrum.

Action by the Commission on December 15, 2004, by *Notice of Proposed Rulemaking* (FCC 04-288). Chairman Powell, Commissioners Abernathy, Copps, Martin, Adelstein with Chairman Powell and Commissioner Copps issuing separate statements.

Wireless Telecommunications Bureau Contact: Guy Benson at (202) 418-2946 or guy.benson@fcc.gov. TTY 1-888-835-5322.

WT Docket No. 04-435

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News about the Federal Communications Commission can also be found on the Commission's web site www.fcc.gov.

FRED UPTON

6TH DISTRICT, MICHIGAN



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**Congress of the United States
House of Representatives**

December 10, 2004

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The Honorable Michael K. Powell
Chairman
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Dear Chairman Powell:

I am writing in regard to the Federal Communications Commission's (the "Commission") efforts to revise the rules for the spectrum allocated for air-to-ground communications for commercial airline passengers. Today, those who fly on our nation's airlines only have access to a single provider's narrowband air-to-ground service. Such a narrowband service is out of pace with the tremendous array of broadband voice and data services upon which many of those who fly have come to otherwise enjoy and rely in their lives on the ground. Moreover, the current air-to-ground service is priced at a level that, I believe, is out of step with pricing in wireless services provided to consumers on the ground, where there is competition amongst various providers.

The flying public deserves access to high quality broadband air-to-ground service at the lowest possible cost. Therefore, I believe that the Commission not only must promote broadband air-to-ground service, but also must enable competition in the air-to-ground marketplace in order to ensure such service is provided at the lowest possible cost. While competition in the provision of narrowband air-to-ground services did not take shape as originally envisioned by the Commission, I believe that competition in the broadband air-to-ground market has a much greater likelihood of success.

In addition, I would urge the Commission to reject any changes to the current air-to-ground service rules that would permit the provision of ancillary services with air-to-ground service. I believe the potential for

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harmful interference from ancillary services to other bands is too great to warrant such a policy at the current time.

Finally, as I understand it, the Commission will soon begin its consideration of whether there are technical solutions to permit passengers to use their own wireless devices on airplanes without interfering with airplane navigational devices. I believe many consumers would welcome the ability to use their own wireless devices on airplanes if possible, so I urge the Commission to do all that it can to expeditiously determine whether there is a way to permit such use without causing interference with airplane navigational devices.

Thank you for your consideration of my views.

Very truly yours,



Fred Upton

Chairman

House Energy and Commerce

Subcommittee on Telecommunications
and the Internet